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9 *Other signatories appear below*

10  
11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF NEVADA**

13  
14 IN RE WAL-MART WAGE AND HOUR  
15 EMPLOYMENT PRACTICE LITIGATION

16 **MDL 1735**

17 THIS DOCUMENT RELATES TO:  
18 ALL ACTIONS EXCEPT KING v.  
19 WAL-MART STORES, INC., CASE NO.  
20 07-1486-WY

21 2:06-CV-00225-PMP-PAL  
22 (BASE FILE)

23  
24 **PLAINTIFFS' MOTION FOR APPEAL BOND**  
25 **FOR OBJECTOR STEPHANIE SWIFT**  
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**TO ALL PARTIES, OBJECTOR STEPHANIE SWIFT AND THEIR ATTORNEYS OF  
RECORD:**

PLEASE TAKE NOTICE that Co-Lead Counsel Robert Bonsignore together with the undersigned counsels hereby do move and submit this Motion for the Court to hold a hearing on a date to be set by the Court to determine the amount of the appeal bond to be posted by Objector Stephanie Swift and her attorney and/or to act as otherwise deemed reasonable and just. Plaintiffs in this consolidated MDL 1735 case, with the exception of *King v. Wal-Mart Stores, et al.*, Case No. 07-1486-WY<sup>1</sup>, hereby move this Court to require Objector Stephanie Swift to post a bond in the amount of \$2,285,857.15. Plaintiffs advance this Motion pursuant to Rule 7 of the Federal Rules of Appellate Procedure, 28 U.S.C. § 1961, Rule 39(e) of the Federal Rules of Appellate Procedure, Rule 39(c) of the Federal Rules of Appellate Procedure and the District Court's inherent power to require posting of an appeal bond for an Order.

In further support of this Motion are the following grounds more fully addressed in the accompanying memorandum: 1) Objector Swift submitted no financial information to indicate she is financially unable to post a bond despite the opportunity to provide the Court with this information; 2) Objector Swift is not a resident in a Ninth Circuit state and this factor is recognized as presenting significant difficulties in collecting Appellate Costs if the appeal is dismissed or otherwise unsuccessful; 3) Objector Swift's appeal is likely to fail (Plaintiff's believe the appeal to be unsupported and otherwise meritless and in any event not likely to succeed); 4) after extensive review and consideration by this Court, the Settlement was found fair, reasonable and adequate and was both Preliminary and Finally approved; 5) the fee award

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<sup>1</sup> Counsel for Nancy Hall has not responded to a request to join in this request but at the same time has not indicated that he opposes it.

1 was found fair and appropriate under the Ninth Circuit law and expert opinions support using the  
2 Settlement ceiling, not the floor, as an appropriate figure to base fees on.

3 This Motion is based on the accompanying documents attached hereto:

4 I. Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Appeal Bond  
5 for Objector Stephanie Swift.

6 Attachments Include:

- 7 A. Affidavit of Amanda J. Myette Relating to Cost of Additional Class  
8 Notice Relating to the Appeal.  
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10 B. Stephanie Swift Claim Form.  
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12 C. Stephanie Swift Objection.  
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14 D. *Petty v. Wal-Mart Stores, Inc.*, 148 Ohio App. 3d 348 (2002).  
15  
16 E. Ohio Order Granting Complaint for Discovery, October 9, 2009.  
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18 F. Deposition of Process Server Clint Massengale.  
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20 G. Subpoena of Stephanie Swift and Return of Process Server.  
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22 H. Request of Legal Address Needed for Service of Legal Process to the  
23 United States Post Office.

24 II. Declaration of Robert Bonsignore in Support of Plaintiffs' Motion for  
25 Appeal Bond for Objector Stephanie Swift.

26 Attachments Include:

- 27 A. John Pentz Chart of Objections.  
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29 B. Docket no. 447-2, Notice to Take Deposition of Stephanie Swift, October  
30 6, 2009.  
31  
32 C. Exceptional Reporting Services, Inc. Transcript Invoice.  
33  
34 D. Cady Reporting Services, Inc. Invoice no. 972165.  
35  
36 E. Cady Reporting Services, Inc. Invoice no. 972164.  
37  
38 F. Receipt for Process Server Payment.

G. Litigation Document Production, Inc. Estimate.

III. Declaration of John O. Ward, Ph.D.

Attachment A: Curriculum Vitae of John O. Ward, Ph.D

IV. Declaration of Wendy Cole Lascher, Esq.

Attachment A: Curriculum Vitae of Wendy Cole Lascher, Esq.

Attachment B: 2008 Ninth Circuit Annual Report

V. Declaration of Amanda J. Myette Relating to Additional Administrative Costs During Appeal.

Plaintiffs respectfully request that this Court set a hold a hearing on a date to be set by the Court to determine the amount of the appeal bond to be posted by Objector Stephanie Swift and her attorneys and/or to otherwise act in a just and reasonable way.

Dated: January 14, 2010

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 14, 2010, a copy of the foregoing *Plaintiffs' Motion for Appeal Bond for Objector Stephanie Swift* was filed electronically [and served by mail on anyone unable to accept electronic filing]. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system [or by mail to anyone unable to accept electronic filing]. Parties may access this filing through the Court's system.

/s/ Robert J. Bonsignore  
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